IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.121 OF 1997

The Commissioner of Income Tax
Nashik .. Applicant.
V/s.
Gangapur SSK Ltd., Nashik .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> 1. Whether on the facts and in the circumstances of the case, the I.T.A.T. was right in deleting the addition on account of exgratia payment of Rs.2,28,328/- over and above 8.33% by relying on Bombay High Court's decision in the case of C.I.T. V/s. Raghuvanshi Mills P. Ltd. in I.T.A. No.168 of 1987 ?
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> 2. Whether on the facts and in the circumstances of the case, the I.T.A.T. was right in deleting the lift irrigation expenses of Rs.5,66,717/- in repsect of Jalgaon and Rs.5,23,400/- in respect of Newargaon ?
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> 3. Whether on the facts and in the circumstances of the case, the I.T.A.T. was right in deleting the addition on account of Molasses fund of Rs.1,07,055/- ?
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> 4. Whether on the facts and in the

circumstances of the case, the I.T.A.T. was right in deleting the addition on account of development fund on Rs.1,28,328/- ?

2. In so far as first three questions are concerned, the issues are covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as question No.4 is concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issue stands remanded back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)